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ABSTRACT

This manual is designed to help parents learn how the special education system works in Pennsylvania and how parents can use the system to benefit their child. Chapters of the manual cover the student's right to: (1) a free appropriate public education; (2) pre-evaluation screening; (3) evaluations and re-evaluations; (4) an individualized educaation program; (5) an appropriate school placement; (6) the right to disagree with school officials; (7) special protections in discipline and in behavior programs; (8) a high school diploma; (9) preschool services; and (10) other important special education rights. Appendixes include definitions of exceptionalities, copies of sample letters, a list of parent advocacy and support groups, and a bibliography of federal and state laws and regulations. (JDD)

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THE RIGHT TO SPECIAL EDUCATION

IN PENNSYLVANIA

A GUIDE FOR PARENTS

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GLOSSARY OF SPECIAL EDUCATION TERMS

APPROPRIATE PROGRAM - A free program of education and related services that is designed to meet the child's special needs and allows the child to make meaningful progress in school. See Chapter 1, p. 1.

DUE PROCESS - The procedures that parents may use to disagree with school officials' decisions. The due process procedures include right to written notice, right to a pre-hearing conference, and right to a formal hearing and appeals. See Chapter 6, p. 27.

EXCEPTIONAL - Students who have a disability (sometimes callled "eligible students") or who are gifted, and because of their needs require a special education program. The term includes children with mental, emotional, sensory and health impairments, and children with physical disabilities. See Chapter 1, p. 1, and Appendix A, p. 46.

IEP - Individualized Education Program. A written form that spells out the specific programs and services the child will receive. The IEP also contains goals and objectives for the child, the date services are to start, and other information about the program. See Chapter 4, p. 13.

IST - Instructional Support Team. A team of school staff that includes a specially trained support teacher. The IST does an initial screening of children thought to be exceptional to see if they can be helped within regular education if some changes are made to their programs. The IST system is being phased into districts and intermediate units. See Chapter 2, p. 4.

MDT - Multi-Disciplinary Team. A team of school staff and the child's parents that reviews all formal testing of a child and all other evaluation material. The MDT must issue a written Report recommending whether the child is exceptional and, if so, the types of programs and services needed. See Chapter 3, p. 8.

MEDIATION - A voluntary system that parents and school officials can use to work out disagreements over a child's exceptionality, program or placement. Using mediation is free and does not affect the right to use the due process procedures. See Chapter 6, p. 27.

NORA - Notice of Recommended Assignment. This form lists the recommended placement for the child and explains parents' rights to agree or disagree with the recommendation and to use the due process hearing and appeal procedures. See Chapter 5, p. 21.

RELATED SERVICES - Transportation and other support services, such as physical, speech or occupational therapy, that are needed to help a child benefit from or have access to the school program. All related services needed must be provided without charge. See Chapter 4, p. 13.

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THE RIGHT TO SPECIAL EDUCATION

IN PENNSYLVANIA

A GUIDE FOR PARENTS

written by

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Single copies in English or in Spanish are available to parents and advocates without cost. Bulk orders are available at a cost of $4.50 per copy, plus sales tax and postage. Parent organizations interested in obtaining bulk orders should contact ELC-PA for special rates.

This Manual is also available on cassette. If you are interested in obtaining a copy, contact ELC-PA at the above telephone number.

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PREFACE

Several individuals and organizations were instrumental in making possible this edition of *The Right To Special Education In Pennsylvania - A Guide For Parents*. In particular, our thanks to GAIL WALKER, of the MENTOR PARENT PROGRAM, who arranged this printing. We are also extremely grateful to SENECA PRINTING, INC., which not only printed this edition for us, but contributed much of the printing costs as an in-kind contribution.

Our thanks also goes out to the PHILADELPHIA BAR ASSOCIATION and its Executive Director, KENNETH SHEAR, for printing the Spanish language version of the Manual. We are also grateful to the PHILADELPHIA BAR FOUNDATION - IOLTA PROGRAM for providing the additional funds necessary to have the Manual translated into Spanish and to cover other, associated costs.

The Board of PENNSYLVANIA PROTECTION & ADVOCACY, INC. and its Executive Director, KEVIN CASEY, are also due our gratitude. PP&A has provided the major portion of our program funds for the past decade, along with a very large helping of moral support. Without PP&A's support, there would be no ELC - PA.

Finally, we are grateful to the many parents and advocates who have helped make this edition possible, through their suggestions, encouragement, and contributions. We hope this Manual meets their expectations.

- ELC-PA STAFF
1992

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1: THE RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION

This Manual is designed to help you - the parent - learn how the special education system works in Pennsylvania and how you can make it work for your child. Keep in mind that no one knows your child as well as you do. The law makes clear that your knowledge of your child and your opinions on the types of services needed are important to making the system work the way it was designed to work --- for the benefit of children.

REMEMBER:

- Always keep copies of any letters, reports or other material you give to school officials.

- Make notes of any conversations you have with school officials, including the date the conversation took place and the person's name and position.

- If a school official promises to do something for you or your child, make a note of the person's name, the date, what is to be done, and the date by which it's supposed to be done.

- Consider taking a friend, neighbor or advocate with you to meetings at your child's school.

- When you attend school meetings, ask each person at the meeting to tell you their name and position - and keep a record of the information.

- If you ask for something and are told "we don't do that" or "we can't do that," ask the school officials for a copy of the written policy, law or regulation on which they're relying.

- CHILDREN COVERED BY THE LAW

In Pennsylvania, all "exceptional" children have the right to a "free appropriate public education." The term "exceptional" includes children with physical, emotional, or mental disabilities and youngsters who are mentally gifted. *STUDENTS WHO WERE RECEIVING SPECIAL EDUCATION AS OF THE END OF SCHOOL YEAR 1989-90 ARE ALSO CONSIDERED "EXCEPTIONAL."* The

definitions of the various disabilities recognized by state law and of the term "gifted" are included in this Manual at p. 46.

Exceptional children are entitled to receive a free appropriate education at the age they begin attending public school and can continue to receive their special education programs and services through the school year in which they turn 21, or until graduation from high school, whichever comes first.

Young children with disabilities or developmental delays also may be entitled to services beginning soon after birth. The right to early intervention and pre-school services are discussed in Chapter 9, beginning at page 39.

Some children with chronic health problems, such as asthma or diabetes, and some youngsters with physical disabilities, do not need special education. These children are nonetheless entitled to the services, accommodations, and modifications they need to participate fully in their regular education programs. For more information concerning the rights of these youngsters, contact ELC's offices.

- SPECIAL SERVICES THE LAW PROVIDES

Under federal and state law, each exceptional child has the right to a free education designed to meet the child's unique learning needs. This includes "specially designed" classroom instruction and the "related services" needed by the youngster to benefit from the classroom program. Exceptional children and their parents are also entitled to special protections - often called "due process procedures" - to assure that their opinions are considered by school officials.

The term "specially designed instruction" can include instruction in the same subjects provided to regular education students, with the teaching methods modified to take account of the child's needs. "Specially designed instruction" can also include teaching a youngster self-help skills, such as dressing skills or the skills needed to live in the community. For a youngster who is gifted, "specially designed instruction" may include more advanced coursework than that provided

to regular education students. *IN ANY CASE, THE LAW REQUIRES THAT THE CHOICE OF WHAT TO TEACH EACH CHILD AND HOW TO TEACH IT DEPENDS ON THE CHILD'S INDIVIDUAL NEEDS.*

"Related services" are services needed to help the student benefit from the education program. These can include transportation to and from school, or around the school building; physical, occupational, or speech therapy; counseling or psychological services; school health services; and other services the child may need to benefit from or have access to the school program. The services of a medical doctor are not usually included, except when necessary to determine the type of special education and related services the child needs. Families may not be charged for related services, whether the school district provides them directly or through a private source.

The school district where the parents live is responsible for making sure that each student receives a free appropriate public education. Pennsylvania children who live away from "home" in residential settings other than private schools, such as in group homes or in foster care, are entitled to receive their education from the school district in which they live.

Special education programs and services can be provided in a regular classroom, a special classroom or in a special school, depending on the needs of the child. If a student with disabilities has needs that are so complex the child's home district cannot develop a program to meet them, the district must assign the child to a program run by a neighboring district, an intermediate unit or a private school.

"A FREE APPROPRIATE PUBLIC EDUCATION:"
A free appropriate public education is a planned program of education and special services that takes account of the child's individual needs and that allows the child to make *meaningful* progress. Each youngster's program must be provided without cost to the family and must be designed to enable the student to be an independent adult and to participate fully in the community.

2: THE RIGHT TO PRE-EVALUATION SCREENING

- INSTRUCTIONAL SUPPORT TEAMS

Beginning in school year 1990-91, the Pennsylvania Department of Education will start training school districts on how to use "instructional support teams" (ISTs). Each year, approximately 1/5 of Pennsylvania's school districts will receive this training. All 501 districts should have the IST by school year 1995-96. If your district does not yet use ISTs, you can skip this Chapter. Until the IST system is in place in your district, children thought to need special education should be referred for a full special education evaluation. *AS DISCUSSED IN THE NEXT CHAPTER, YOU HAVE THE RIGHT TO OBTAIN A FULL SPECIAL EDUCATION EVALUATION OF YOUR CHILD BEFORE, DURING OR AFTER THE IST PROCESS IF YOU BELIEVE THAT YOUR CHILD REQUIRES SPECIAL EDUCATION SERVICES TO SUCCEED IN SCHOOL.*

- THE PURPOSE OF THE INSTRUCTIONAL SUPPORT TEAM

The purpose of the IST is to find out if a student who is having trouble in school can remain in regular education if changes are made to the child's program. When in place, the IST will work with students from kindergarten through 6th grade who are having learning problems in regular education. The IST will not be used with pre-schoolers, youngsters thought to be gifted, any children above the 6th grade or any children who are not enrolled in a public school program.

The IST can provide support or training to the regular classroom teacher on how to help the student. The IST can also recommend that the student take part in a remedial program or other special services the district offers. If a special education student is returning to the regular classroom, the IST can help to assure a smooth transition. Finally, if the IST does not believe that modifications to the regular program will work - or if modifications are tried and don't work - the IST

must recommend a full evaluation to determine if the youngster needs special education services.

- THE MAKE-UP OF THE IST

The IST is made up of the student's classroom teacher, the principal or a person representing the principal, and the specially trained "support teacher" assigned to the student's school. The support teacher must have extensive experience working with students who have disabilities. There may be other members of the team - such as the guidance counselor, a reading specialist, or speech teacher - depending on the student's needs.

A parent, teacher or other school staff may refer a student to the IST. If the referral is made by someone other than the parents, the parents must be told that their child will be reviewed by the IST and they must be asked to participate in that screening process.

- IST TIMELINES

The IST must review a student within 10 school days after the referral has been made. Within 10 school days after that review, a modification recommended by the IST must be made to the student's program. If the child's needs are so great that special education services definitely will be needed, the child must be referred for a special education evaluation.

If the student has shown little or no improvement within 30 school days, another modification may be tried, or the IST may refer the child for a special education evaluation. *THE IST MUST REFER A CHILD FOR A FULL SPECIAL EDUCATION EVALUATION IF NO IMPROVEMENT IS SHOWN IN THE YOUNGSTER'S PERFORMANCE WITHIN 60 SCHOOL DAYS.*

3: THE RIGHT TO EVALUATIONS AND RE-EVALUATIONS

- THE PURPOSE OF EVALUATIONS AND RE-EVALUATIONS

In order to know what type of special help a youngster needs, it is important to understand the child's learning strengths and weaknesses. Therefore, an in-depth evaluation must be done before a child can be recommended for special education. The evaluation should determine whether the child is exceptional and, if so, the type of disability the child has or whether the child is gifted. An evaluation or re-evaluation should also determine the child's learning style, the types of instruction that would be successful with the child and the types that have been tried and have not worked.

Usually, the child must be evaluated by a certified school psychologist. Other evaluations may also be needed. For example, a child with a hearing impairment will need an evaluation from an audiologist or otologist; a child with a health impairment will need an evaluation from a physician. The evaluations needed to determine each type of exceptionality are found in Appendix A, beginning at p. 46. The evaluation process may also include an evaluation by a physician or therapist if certain related services - such as physical or occupational therapy - may be needed by the child. *ALL EVALUATIONS AND RE-EVALUATIONS NEEDED TO DETERMINE THE CHILD'S EXCEPTIONALITY AND THE TYPE OF SPECIAL PROGRAM AND RELATED SERVICES THE CHILD NEEDS MUST BE PROVIDED FREE OF CHARGE.*

Evaluations and re-evaluations must take account of the child's English language skills and ethnic background, so that the testing and evaluation will not be racially or culturally biased. For example, a child who does not speak English must be evaluated by someone who speaks the child's language. Testing must also take account of a child's disability to assure that the test is fair. For example, a child who has a severe visual problem should not be given a written intelligence test.

- THE INITIAL EVALUATION

If school officials want to evaluate your child for the first time, they must send you a written notice telling you the types of evaluations that are being recommended; the dates of the evaluations; your right to meet with an evaluator before testing is done; your right to review your child's school records; and your right to give or refuse consent to the proposed evaluation. *IF YOU REFUSE TO CONSENT IN WRITING TO YOUR CHILD'S FIRST EVALUATION, THE EVALUATION CANNOT BE DONE UNLESS SCHOOL OFFICIALS REQUEST A HEARING AND OBTAIN AN ORDER FROM A SPECIAL EDUCATION HEARING OFFICER.*

You may also begin the evaluation process yourself, if you believe your child needs special education services. To do so, you must make a written request. If you make an oral request to a school official, the law requires that the school official tell you that the request must be in writing and give you a Request Form to use.

HOW TO REQUEST
A SPECIAL EDUCATION EVALUATION:

If you want your child evaluated for special education, send a written request to the principal of the child's school. You can use the sample letter found at p. 48 of this Manual or you can write your own letter. Include your child's name; date of birth; why you think an evaluation is needed; and that you give consent for the evaluation to take place. If you have already gotten evaluations indicating your child's need for special education from doctors or others outside the school system, you may send copies of those Reports to your child's school. *Be sure to keep a copy of your evaluation request for your records!*

If you do not hear from school officials within a few weeks, call the school principal and ask when the evaluation will take place. If you do not get a satisfactory answer - or if you get no answer at all - you may file a complaint with the State or ask for a special education hearing. (See Chapter 6)

- RE-EVALUATIONS

Every student receiving special education services must be re-evaluated at least once every two years and before any significant change is made in a student's program or placement. The school district must give you written notice before re-evaluating your child. *AS WILL BE DISCUSSED LATER IN THIS MANUAL, A RE-EVALUATION MUST ALSO BE DONE BEFORE CERTAIN DISCIPLINARY ACTIONS CAN BE TAKEN AGAINST A STUDENT RECEIVING SPECIAL EDUCATION SERVICES.* (See Chapter 7, beginning at p. 36.)

Like the first evaluation, a re-evaluation must be thorough enough to determine if the child should continue in special education and what changes, if any, should be made to the child's program or related services.

If your youngster has been receiving special education services, but you don't believe the program has been working, it is sometimes useful to obtain a re-evaluation before the two years has elapsed to help find out what program changes should be made.

HOW TO REQUEST A SPECIAL EDUCATION RE-EVALUATION:

If you want a re-evaluation of your child, you should write to your child's principal. You can use the sample letter found at p. 49 of this Manual or you can write your own letter. Include your child's name; date of birth; and why you believe a re-evaluation is necessary. *Be sure to keep a copy of your re-evaluation request for your records!*

If you request a re-evaluation of your child and the school district refuses to do one in a reasonable time, you have the right to request a special education hearing and ask the hearing officer to order the district to re-evaluate your child. (See Chapter 6)

- INDEPENDENT EVALUATIONS

You have the right to get evaluation reports from professionals outside the school system and submit them to school officials. These reports are often called "independent evaluations." School officials must consider the results of any independent evaluations you submit.

You also have the right to request that the school system pay for an independent evaluation of your child if you believe the school's evaluation was not appropriate. However, school officials may deny your request. If they do, a special education hearing must be set up so that an impartial hearing officer can decide whether the district should pay for the independent evaluation.

HOW TO REQUEST THAT THE SCHOOL DISTRICT PAY FOR AN INDEPENDENT EVALUATION OF YOUR CHILD:

If you want to ask the school district to pay for an independent evaluation of your child, you should make a request in writing to the principal of your child's school. You can use the sample letter found at p. 50 of this Manual or you can write your own letter. Include your child's name, date of birth and current program. Explain why you believe the school district evaluation is not appropriate. *Be sure to keep a copy of your request for your records!*

If you do not hear from school officials within 2 or 3 weeks, call the principal and ask for a response to your request. If you cannot get an answer, you can file a complaint with the State Department of Education or you can request a special education hearing. (See Chapter 6)

Of course, you are free to obtain an independent evaluation of your child at your own expense without asking the school district. If you are thinking of requesting a hearing because you are not satisfied with your child's program and

haven't been able to resolve your concerns with school officials, an independent evaluation is usually needed to help prove your case. If you go to a hearing, you can ask the hearing officer to order the school district to reimburse you for the cost of the independent evaluation. Reimbursement may be given if the hearing officer decides that the district's evaluations of your child were inadequate.

Be sure that any specialist who does an independent evaluation has the right qualifications. For example, an independent psychological evaluation should be done by a "certified school psychologist," which is the type of psychologist school officials must also use. Make sure you give the independent evaluator copies of your child's current IEP, the one being proposed by school officials and other school records on your child. You should also ask the independent evaluator if he or she will testify for your child at a hearing.

It is important that independent evaluators understand the eligibility rules for special education and related services, and that their reports discuss why the child is exceptional and the types of services needed. If at all possible, the independent evaluator should visit your child's present classroom and also observe any program that is being recommended by the school district.

- THE TEAM APPROACH

The law requires that the results of all testing, including any independent evaluations, and other data on the child be reviewed by a team of specialists, called a Multi-Disciplinary Team (MDT). Parents must be included on the team. The MDT must also include at least the school psychologist and the child's teacher. Others who know the child, the testing procedures, or the child's current program can also be included. If you or the school district think that the student's cultural background may affect the evaluation process, a person familiar with the child's culture should also be on the team, if possible. The MDT is headed by the school principal or a representative of the principal.

The purpose of this "team" approach is to make sure that the student is given a full and complete evaluation and that decisions are not made on the basis of any one test, such as an IQ test. *THE LAW MANDATES THAT NO ONE TEST OR TYPE OF TEST CAN BE USED AS THE BASIS FOR DETERMINING WHETHER A CHILD NEEDS SPECIAL EDUCATION OR THE TYPE OF SERVICES NEEDED.*

An evaluation or re-evaluation must look at more than just the child's academic levels. It must also look at the child's skills, social behavior, learning problems, learning strengths and educational needs. Your child's school records must be reviewed and considered and a member of the MDT in addition to the teacher must observe your child in the classroom. Since your own knowledge of your child's strengths and learning difficulties is extremely important, your input must be requested and considered by school officials.

- THE MDT REPORT

After its review of all material, the MDT must issue a written Report. That Report brings together the information and findings from the evaluation or re-evaluation. The MDT must recommend whether the child has one or more exceptionalities (see p. 46 for listing of definitions). Like other special education decisions, this decision must be based on the profile of the individual student. For example, whether a child has the "significant discrepancy" between ability and achievement needed to meet the definition of "specific learning disability" depends, among other things, on *the child's* potential and achievement level, not on a fixed ratio or percentile score set by school officials.

If the MDT recommends that the child receive special education, the Report must also recommend the type of special education program and services the child needs. Even if the MDT recommends that the child be found "non-exceptional" and therefore not entitled to special education services, it must still recommend any needed changes in the student's educational program.

All members of the MDT - *including the parents* - are entitled to see a draft of the MDT Report. If you agree with the Report, you can sign it indicating agreement. If you do not agree with it, you have 5 school days to write a "dissenting opinion" stating your reasons for not agreeing. Other members of the MDT also have this right. All dissenting opinions, if any, must be included as part of the final Report. A *typewritten* copy of the final Report must be provided to you.

- EVALUATION AND RE-EVALUATION TIMELINES

The MDT process must be completed within 45 school days after you consent to an initial evaluation; after notice is given to you of a re-evaluation; or after the district receives an order to conduct an evaluation or re-evaluation from a special education hearing officer or a court. A short extension of this timeline by school officials is possible only with the *prior* permission of the state Department of Education.

The MDT Evaluation Report must be completed within 10 school days after the evaluation or re-evaluation is done; within 5 school days after that, a copy of the Report must be given to you.

4: THE RIGHT TO AN INDIVIDUALIZED EDUCATION PROGRAM

Every exceptional student is entitled to an Individualized Education Program (IEP). The IEP is a written plan that tells what special education programs and services the child will receive. The IEP is written at a conference by a team which includes the child's parents. An IEP must be reviewed each year and, when needed, revised by the IEP team. *AN IEP MUST INCLUDE ALL THE PROGRAMS AND SERVICES NECESSARY TO MEET A CHILD'S INDIVIDUAL NEEDS AS IDENTIFIED DURING THE EVALUATION OR RE-EVALUATION PROCESS.*

Once the IEP is developed, school officials must make sure that the child receives all the programs and services listed in the IEP. When a child moves from one Pennsylvania school district to another, the IEP "moves" with the child and generally must be followed by the new school district, unless the parent and district agree to a change or a change is ordered by a hearing officer.

- THE IEP CONFERENCE

The law requires that the IEP be developed at a conference with the child's parents, and prohibits school officials from deciding what the IEP will say before then. Parents must be invited to attend even if their child lives away from home in a residential setting. The conference must be scheduled at a time and place convenient for you and school officials.

The law also requires school officials to make every effort to ensure that parents attend IEP conferences. You must be notified in writing of the purpose, time and location of the conference and of the other people who are invited to attend. You must also be notified of all your rights. The notice must be in the language you use and must be sent to you early enough so that you have an opportunity to make arrangements to attend the conference.

At the end of the IEP conference, you will either be given or mailed a copy of the IEP. You also should get a written notice of the proposed placement for your child and of your rights. If the IEP is the first one for your child, you must approve the IEP - *in writing* - before it can be put in effect. For later IEPs, if you disagree with the IEP you must do so in writing. *IF YOU DO NOTHING WITH A LATER IEP, IT WILL BE ASSUMED THAT YOU HAVE APPROVED IT AND THE DISTRICT WILL BE ALLOWED TO IMPLEMENT IT.*

You do not have to decide whether to approve or disapprove the IEP at the conference. The law gives you up to 5 days to respond if you were given the IEP and notice, or 10 days if they were mailed to you. If you are given the forms and approve them within 5 days, the law gives you another 5 days to change your mind before the district can implement the IEP.

- THE IEP TEAM

At the IEP conference, the IEP team is responsible for reviewing the MDT Report and deciding whether a child needs special education. If the team decides that your child does need special education, it then decides the kind of program and services needed. If the team decides that your child is not eligible for special education, it must give or send you a written notice of the decision which explains your right to disagree and request a special education hearing.

Each IEP team must include:

* The child's parent(s)
* One or more of the child's current teachers; or, if the student is just entering school, a regular education teacher who teaches students of the same age
* Someone qualified to provide or supervise special education programs
* The person who made the initial referral for screening or evaluation
* A person who knows the district's program and placement options
* A member of the Instructional Support Team, if an IST was used

* One or more members of the MDT which completed the most recent evaluation or re-evaluation of the student

* Someone qualified to do an educational evaluation of students if the student is thought to have a learning disability

* The student, if over 18 or if you want the student to attend

* Any other people that either you or school officials want to attend the conference

A single member of the IEP team may meet two or more of the above requirements; however, an IEP team must have at least two members in addition to the parent(s).

- THE CONTENTS OF AN IEP

Each IEP must contain information in the following areas:

* The child's current educational levels

* Annual goals and short-term learning outcomes that respond to the individual needs of the student

* The specific special education services and programs to be provided to the student

* The type, amount and frequency of the related services needed by the student

* The date services and programs will begin and how long they will continue

* What tests or other procedures will be used to tell if the student is achieving the goals and learning outcomes

* If the student has a disability, the amount of time the child will spend in programs and activities with regular education students

* If the student will be in a regular education class for part of the day, what modifications, if any, are needed for the child to succeed in that class. This could include, for example, giving the child untimed tests or having another student help the child take class notes.

In addition, information in the following areas must be included in the IEP where appropriate for the child:

* *Assistive Technology* - for students who have physical impairments or other disabilities and require special equipment to help them participate in school.

* *Vocational Education* - for students for whom vocational training is appropriate. As with other services, the need for vocational education depends on the *individual child's needs*, and not on an arbitrary age requirement, achievement level or other rule set by the school district.

* *Extended School Year (ESY) Programs* - for students who are eligible, the type and length of the ESY program must appear on the IEP (see below).

* *Graduation Planning* - for all students, beginning at least 3 years prior to expected graduation. The IEP must contain a plan for the student's graduation from high school.

* *Adaptive Physical Education* - for children who cannot participate in a regular physical education program because of their disabilities.

* *Behavior Programs* - for students classified as "seriously emotionally disturbed" (SED) and for students with other disabilities who have behavior problems that interfere with their learning. The IEP must contain a program designed to teach the student appropriate behavior and social skills. All behavior programs must use positive - not negative - approaches. (For a more detailed discussion of the laws concerning discipline and behavior programs, see Chapter 7, beginning at p. 36.)

* *Transition Services* - for all students with disabilities, beginning no later than age 16. Transition services are activities designed to provide the student with the skills needed for post-school life, including vocational training, employment and independent living.

* *Enrichment and Advancement* - for gifted students. The IEP should indicate what enrichment activities or accelerated courses will be provided to the child.

- EXTENDED SCHOOL YEAR (ESY) PROGRAMS

Extended School Year (ESY) Programs are special education programs for children with disabilities who regress in basic skills during breaks in the school year and then take a long time to regain those skills once the program begins again. Programs can be provided during the summer months or on weekends.

Children who have autism, severe mental retardation, severe multi-handicaps, or severe emotional disturbances *must* be considered for an ESY program by school officials each year. Other children who are likely to regress and have difficulty catching up are also entitled to ESY services. If you believe your child qualifies, you can request that your youngster be considered. For children found eligible, the type and length of the ESY program must appear on the IEP.

- **RELATED SERVICES**

The IEP must also contain the "related services" needed to help your child benefit from or gain access to the education program, such as transportation, physical or speech therapy. *IT IS IMPORTANT THAT THE IEP STATE THE TYPE, AMOUNT AND FREQUENCY OF THE RELATED SERVICES TO BE PROVIDED.* For example, instead of just stating "speech therapy," the IEP should state "individual speech therapy, 30-minute periods, 3 times per week." In this way, you will know exactly what your child should receive. If the service is not provided as stated, you can file a complaint with the State to enforce the IEP (see p. 34).

It is important to remember that a student is entitled only to the type, frequency, and amount of related services needed to assist the youngster to benefit from or gain access to the program. Be sure any independent evaluator you use answers the following questions in his or her evaluation report:

- What type(s) of related service(s) does the student need?
- How often should the child receive the service(s)?
- For how long should the child receive the service each time it's provided?
- Why is this service necessary in order to help the child benefit from the program as set out in the IEP?

Transportation to and from school is probably the most frequently needed related service. Transportation must be appropriate for your child. For example, if your youngster uses a wheelchair, transportation should be provided with a lift bus or other vehicle able to handle the wheelchair in a safe manner. *LIKE ALL OTHER*

RELATED SERVICES, TRANSPORTATION MUST BE PROVIDED FOR YOUR CHILD WITHOUT COST TO YOU.

The length of the transportation provided must also be appropriate in view of your child's age and special needs. While there is no absolute rule on the length of the transportation ride, a general guideline is that a child should not spend more than one hour getting to or from school. However, for young children or children with severe disabilities, one hour - or even one-half hour - may be too long a ride and therefore not appropriate.

REMEMBER, THE IEP MUST ADDRESS *YOUR* CHILD'S NEEDS:

Don't accept an IEP that isn't based on your child's special learning needs. For example, if your child has trouble reading, the IEP should include a reading program based on how your child learns. Sometimes, districts try to give parents an IEP that is just a form checklist, or one that includes only a "watered-down" version of regular education goals and does not focus on the student's particular learning difficulties. You should insist that the IEP contain all programs and services necessary to meet your child's own needs. If it doesn't, you should disapprove the IEP - *in writing*. You have the right to ask for mediation, for a pre-hearing conference, or for a special education hearing to try to resolve your concerns. (See Chapter 6)

- TIPS ON DEVELOPING IEPs

REVIEW THE MDT REPORT and your child's records before you go to the IEP conference. The law requires that you receive a copy of the report at least 10 days before the IEP conference. Make a note of the areas in which the evaluators found that your child is having difficulty and any other problem areas you have seen in your child.

THINK ABOUT WHAT YOU WANT YOUR CHILD TO LEARN. It might be helpful to try to answer such questions as:

- In what subjects and skills does your child need special help? Are some of these especially "high priorities" in your mind?

- What kinds of help does your child need in these areas? For example, what teaching methods work best with your child and what types have been tried and have not worked? Does your child learn best by repetition? Does your child need to have material presented visually as well as orally? What needs to be ***special*** about the way your child is taught?

- What activities especially interest or motivate your child? Are enough of these included in your child's school day? Is there a need to give your child more opportunities for success in school?

- Are there parts of the school day that your child is finding particularly frustrating? How can they be improved? Are there areas that shouldn't be included in your child's program at all?

- Should your child be spending more (or less) of the day in regular education classes? Which ones? Should your child be spending more time with non-exceptional students in activities such as gym, music, art and lunch?

MAKE A LIST of some specific ideas of what you'd like to see included in the IEP. Take the list with you to the IEP conference. Remember, you are free to bring up for discussion *anything* you think is needed as part of your child's school program. School officials may or may not agree with you (see box below), but they have to discuss your ideas with you.

QUESTION the school staff concerning what teaching methods work best with your child. If you're not sure why your child isn't doing well in school or what goals would be appropriate for your child, ask the teacher and evaluator for their opinions. You may also want to request some additional evaluations of your child.

SPEAK YOUR MIND! Make sure that the completed IEP contains as much of your input as possible and includes all of the information listed under "THE CONTENTS OF AN IEP," beginning on p. 15, above.

HOW TO HANDLE DISAGREEMENTS AT THE IEP CONFERENCE:

You may disagree with the programs and services that school officials propose for your child - or you may want the IEP to contain programs or services that school officials will not agree to give your child. While at the conference, you should explain what you want or what you don't want to appear on the IEP and the reasons why. Take each issue one at a time. If you can't get school officials to agree with you, move on to the next issue. You should try to get the IEP as close as possible to what you want during the IEP conference.

If the final IEP worked out at that time is not exactly how you want it, you have the right to disapprove the IEP and use the mediation or hearing process to resolve your concerns. Remember, if you do not approve the IEP, your child will remain in the then current program and placement. (See section on the "Stay Put" rule, beginning at p. 33.)

- IEP TIMELINES

The IEP must be completed within 30 calendar days after the MDT Report is issued. If you approve the initial IEP in writing, or approve or do nothing concerning a later IEP, the IEP must be implemented as soon as possible, but no later than 10 school days after it is completed.

IEP Conferences must be held for each exceptional child at least once per year. Additional conferences must be held if a member of the IEP team - *such as the parent* - requests an IEP conference.

5: THE RIGHT TO AN APPROPRIATE SCHOOL PLACEMENT

The law requires that an IEP be developed for a child *before* it is decided where the program should be provided. This is because, to be appropriate, the placement must be able to implement the program and services described in the IEP. Unfortunately, school officials often try to decide the child's placement first - based on what is available - and want to discuss program issues later. You should insist on discussing placement issues only after the IEP has been completed. *THE LAW REQUIRES THAT THE EDUCATION PROGRAM AND PLACEMENT BE FITTED TO THE CHILD, NOT THE CHILD TO A PRE-PACKAGED PROGRAM AND PLACEMENT.*

- THE NOTICE OF RECOMMENDED ASSIGNMENT (NORA)

Once an IEP is developed, school officials must give or send you a form called a Notice of Recommended Assignment (NORA). The NORA tells you the placement that is being recommended for your child and also explains your rights.

You can and should disapprove the NORA and begin the due process procedures if you believe that the placement being offered is not appropriate for your child. You have 10 days to return the NORA if it is mailed to you and 5 days to return it if the form is given to you at a conference. As with the IEP, if you are given the form and approve it within 5 days, you still have another 5 days to change your mind. *YOU MUST APPROVE THE NORA FOR YOUR CHILD'S FIRST SPECIAL EDUCATION PLACEMENT - IN WRITING - IF YOU WANT IT TO GO INTO EFFECT. WITH LATER NORAs, IT WILL BE ASSUMED THAT YOU APPROVE UNLESS YOU CHECK THE "I DO NOT APPROVE" LINE ON THE FORM.*

Even if you agree with the program outlined on the IEP, a recommended placement still may not be appropriate for several reasons. For example, the placement may be at a school far from your home; the other youngsters in the proposed class may not be within your child's age range; or the placement may be

in a special school and you believe your child should attend school in the same building as non-disabled students.

If you have these kinds of problems with the proposed placement, you should disapprove the NORA and return it to school officials. When you check the "I do not approve" line on a NORA, you will automatically be starting the due process procedures discussed in the next Chapter. If, however, you would rather have your child in the placement being recommended than the one the child is currently in, you can approve the NORA - either initially or after meeting with school officials - and can still use the mediation or hearing process to try to resolve your concerns. In the meantime, your child will begin attending the new placement.

To decide if the placement recommended for your child is appropriate, you should consider the following issues: whether the classroom is appropriate; whether the school is appropriate; and whether the grouping of students is appropriate in view of your child's age and learning needs.

- THE APPROPRIATE CLASSROOM

The appropriate class for your child depends on the amount and type of special instruction or related services your child needs. The law mandates that children be provided services in the regular education classroom whenever possible. If your child will receive only some courses in special education, it should be possible for the youngster to be in a regular education class for most of the day. The child can then either go to a special education "classroom" to receive services, or a special education teacher can provide the services to the child in the regular class.

However, for some children, placement in a special education class for most or all of the day is necessary. Even in those situations, however, the law requires that, if appropriate, the student spend time with regular education students in academic, non-academic or after-school activities. Mixing special education students with regular education students is sometimes called *integration*.

In general, there are 5 types of classroom possibilities, ranging from nearly all regular education to nearly all special education. School officials must pick the highest priority class that will give your child a meaningful chance to make progress in the areas included in the IEP. In order of preference, the class possibilities are:

- A regular class for the entire school day, with support services provided by a special or regular education teacher within the regular classroom.

- A regular class for most of the school day, with special education programs or services provided for a part of the day. The services can be provided either in or out of the regular class, by an "itinerant" teacher who serves many different students.

- A regular class for most of the school day, with special education or related services provided in a "resource room" for part of the day.

- A special education "part-time" class for most of the school day, with some instruction in a regular classroom for part of the day.

- A "full-time" special education class for the entire day, with some opportunities to spend non-academic time with regular education students.

- THE APPROPRIATE SCHOOL

The law requires that children with disabilities be placed in the school that will provide them the maximum opportunity - appropriate to the child's needs - to be with students who are not disabled. This is sometimes called placing the student in the "least restrictive environment." *LIKE ALL OTHER DECISIONS, WHAT IS THE "LEAST RESTRICTIVE ENVIRONMENT" FOR YOUR CHILD WILL DEPEND ON YOUR CHILD'S INDIVIDUAL NEEDS, NOT THE CONVENIENCE OF SCHOOL OFFICIALS.*

If your child will spend all or almost all of the school day in a regular classroom, the placement must be in the local school your child would normally attend. If your child will need a resource room or part-time class, the local school is still the preferred placement under the law. However, if this is not possible, the child must be placed in another regular education building within your school district that is as close to your home as possible.

If your child requires a full-time special education program, school officials must still try to place the child in a regular public school, unless the child's needs are so complex that this would not be appropriate. In cases where the IEP cannot be implemented in a regular public school, the child must be placed in either a public or private special education school.

A private program can be recommended only if no public program exists or can be developed, and if the State Department of Education approves the placement. Ordinarily, a child is assigned to a private school on a day basis only. There are two circumstances when a residential placement can be recommended: when the child will otherwise be unable to make meaningful educational progress, or if the only appropriate program is at a school so far away that daily transportation is not practical. However, your child can only be placed in a residential setting if you give your consent. Keep in mind that even if your child is placed in a day or residential school, the program and all necessary related services must still be provided without charge.

The least preferred choice under the law is "homebound" instruction. Under this arrangement, a teacher must see the student for 5 or more hours a week, usually at the child's home. This type of placement can be offered only to children whose needs cannot be met in any kind of school setting, such as a child with complex medical needs who cannot leave home. Because this is the least preferred option, the placement of a child on homebound instruction must be reviewed every 3 months.

- GROUPING STUDENTS BY LEARNING NEEDS AND AGE

State law recognizes the following types of classes:

- *LEARNING SUPPORT CLASSES*, for children whose primary need is for help in academic areas such as reading and arithmetic.

- *EMOTIONAL SUPPORT CLASSES*, for children whose primary need is for social, emotional and behavioral support.

- *LIFE SKILLS SUPPORT CLASSES*, for children whose primary need is to learn the skills necessary for independent living.

- *SENSORY SUPPORT CLASSES*, for children who have hearing impairments or visual impairments.

- *SPEECH AND LANGUAGE SUPPORT CLASSES*, for children who have impairments in these areas.

- *PHYSICAL SUPPORT CLASSES*, for children who need a program that is modified to take account of their physical disabilities.

- *AUTISM SUPPORT CLASSES*, for youngsters who have autism.

- *MULTIHANDICAPPED SUPPORT CLASSES*, for children with severe multiple disabilities.

- *GIFTED SUPPORT CLASSES*, for students who are mentally gifted.

School officials are permitted to place children with different disabilities into the same class only if their learning needs are similar and they can all benefit from the same level and manner of instruction. Categories of classes, such as learning support and emotional support, cannot be mixed except with the specific approval of the Secretary of Education.

The law also requires that special education students be placed in classes and in schools attended by children of the same age range. At the elementary level (grades K-6), a class cannot have children who vary in age by more than 3 years. For example, it would not be appropriate to place children ages 6 through 11 in the same classroom.

At the secondary level (grades 7-12), an age range of no more than 4 years is allowed. It would therefore not be appropriate to have children ages 15 through 21 in the same class. An exception can be made to these age grouping rules only by the IEP team if explained in writing and if *based on the child's needs*.

- PERMISSIBLE CLASS SIZES

State law sets the maximum teacher caseloads and maximum class sizes permitted in public school programs, depending on the type of service or class (itinerant, resource room, part-time or full-time) and the learning needs of the children in the class (e.g., learning support, emotional support, etc.). A chart showing the maximum caseloads and the maximum number of children permitted to be assigned to a class at any one time is included in this Manual at p. 51.

- CHILDREN PLACED BY THEIR PARENTS IN PRIVATE SCHOOLS

Children with disabilities who are placed by their parents in private schools (including parochial schools) are still entitled to receive some public special education services. The services are usually provided by the intermediate unit in which the private school is located. Special education services to private school students are sometimes called "auxiliary services," and must also be listed on an IEP. These types of services are usually provided at a nearby public school building before or after school hours, or can be provided in other ways, such as through dual enrollment.

In some cases, parents of a child with disabilities may be entitled to get reimbursed for the tuition they paid to a private school. If the parents disapprove the program and placement offered by the school district and place the child in a private special education school while going through the hearing process - and they eventually win their case - they may be eligible to receive tuition reimbursement from the school district.

6: THE RIGHT TO DISAGREE WITH SCHOOL OFFICIALS

Even when you and school officials try your best to come up with the right program and placement for your child, there may still be disagreements. Disagreements can occur at any stage in the special education process - whether to do an evaluation or re-evaluation or what tests to use; whether the child has a disability and, if so, which disability; whether or not the child is gifted; what program and related services are needed and in what amounts; whether the child's program is or isn't working well; or what class and school is needed to help your child learn. *UNDER FEDERAL AND STATE LAW, YOU NOT ONLY HAVE THE RIGHT TO DISAGREE WITH SCHOOL OFFICIALS, YOU HAVE THE RIGHT TO DO SOMETHING ABOUT IT.* These rights are sometimes called "due process" rights.

- THE RIGHT TO NOTICE

The law requires that you be told about any proposals that school officials are considering for your child so that you can decide whether you agree or disagree with them. School officials must give you *written* notice whenever they want to evaluate or re-evaluate your child or whenever they want to make any significant changes in your child's IEP or placement. School officials must also give you written notice *when they refuse to do something you have asked them to do.*

All notices to you must be written in the language you use, or be in the form of communication you use (such as braille). The contents of the notice must be in words that are easily understood and not overly technical. If you have trouble reading, school officials must help you understand the notice.

Each notice must tell you what school officials want to do, or what they refuse to do; the reasons why; and any tests, records, or evaluations they are using in making their decision. The notice must tell you the timelines used in the

special education process. The notice must also tell you all of your rights, including your right to disagree and to use the pre-hearing conference and hearing process to resolve your concerns. The notice must explain your rights at a hearing and the agencies from which you may be able to get help or services for your child.

- MEDIATION

Pennsylvania has set up a mediation system that can be used by parents and school officials to try to resolve their disputes. Mediation is voluntary on the part of both parents and school officials, so that both sides must agree to use mediation for it to take place. There is no cost to you for using the mediation system and you still have your rights to ask for pre-hearing conferences or a hearing if mediation is not successful.

If both you and school officials agree to try mediation, the State Department of Education will arrange for a neutral, specially trained person to be the mediator. The mediator will meet with you and school officials at a "joint session" where both sides get a chance to explain their points of view. The mediator can also meet with each side separately to find out more about that party's position. Neither school officials nor parents may use an attorney at a mediation session; this helps to keep the mediation process informal.

The mediator does not make a decision. Instead, it is the mediator's job to help parents and school officials reach their own agreement. If agreement is reached, it is put in writing and made part of the student's IEP. If no agreement is reached, mediation is called off. All discussions that take place as part of mediation, whether or not agreement is reached, are confidential.

HOW TO REQUEST MEDIATION:
If you and school officials have a disagreement about your child's evaluation, program or placement at any point in the process, you can request help from the Special Education Mediation System (SEMS). You can call them toll free at 1-800-992-4334. Someone from SEMS will then contact your school district to see if school officials are also willing to use mediation. If both sides agree, mediation is usually scheduled within a few weeks.

- THE PRE-HEARING CONFERENCE

In Pennsylvania, you may request a pre-hearing conference before you ask for a formal hearing. The pre-hearing conference is an optional first step in the due process procedures. It is a chance for you and district officials to try to work out your differences concerning your child's program and placement. It also gives each side a chance to understand the reasons for the other's position. Hopefully, a compromise can be worked out that will satisfy both sides.

If you have received a NORA from the school district and you check the "I do not approve" line, you automatically request a pre-hearing conference. If you have not received a NORA or other notice but want to have a pre-hearing conference, you can request one in writing.

Since the pre-hearing conference is optional, either you or the school district may choose to skip this step and go directly to a hearing. However, districts will usually agree to have a pre-hearing conference if asked.

HOW TO REQUEST A PRE-HEARING CONFERENCE:

If you want to request a pre-hearing conference, write to your child's principal asking for one. You can use the sample letter contained in this Manual at p. 52 or you can write your own letter. Include your child's name, date of birth and current program. State that you want a pre-hearing conference and explain why you want one. Also, give dates and times within the next two weeks you'll be able to attend a conference. *Be sure to keep a copy of your request for your records!*

If you don't get a response within 2 weeks, call your child's principal to find out when the conference will be scheduled. If you do not get an answer, you can file a complaint with the State or request a hearing. (See Chapter 6, p. 34)

The conference must be held within 10 school days after your written request is received by school officials, unless school officials notify you that they wish to skip the conference and go to a hearing. You have the right to bring a friend, neighbor, independent evaluator, advocate or attorney to the conference. If you and school officials cannot reach agreement at the conference, you may ask for a special education hearing.

You have the right to ask for as many conferences as you'd like, if you think that several meetings would be helpful. On the other hand, if you have already met with school officials and do not think more meetings will be helpful, you have the right to skip the pre-hearing conference and ask for an immediate special education hearing or for mediation.

- THE SPECIAL EDUCATION HEARING

You have the right to request a special education "due process" hearing at any time concerning your child's evaluation, program or placement. The school district may also request a hearing if you refuse to give your consent to an initial evaluation or initial special education placement of your child. The school district

must ask for a hearing if it turns down your request for an independent evaluation of your child at school district expense.

A hearing is held before an impartial hearing officer. The hearing officer cannot work for your school district or intermediate unit. Usually, hearing officers work at universities or private or public schools outside your area, or are professionals in private practice.

Although hearings are not as formal as court cases, they are more formal than conferences or meetings with school officials. Each side has a chance to have witnesses - school staff, evaluators, other professionals, neighbors, friends or family members who know the child - and each side may ask questions of the other side's witnesses. If you believe that someone from the school district has information that is important to your case, you can ask the hearing officer before the hearing date to "subpoena" that witness to insure that he or she comes to the hearing. All witnesses give their testimony under oath.

Both sides may give the hearing officer written material, such as reports and evaluations, to consider. *HOWEVER, COPIES OF ANY DOCUMENTS THAT ARE TO BE USED AT A HEARING MUST BE GIVEN TO THE OTHER SIDE AT LEAST 5 DAYS BEFORE THE HEARING DATE.* The hearing is recorded and a transcript is made once the hearing is over. Usually, the school district is represented at the hearing by an attorney. Although parents do not have to have an attorney represent them, they should try to have an attorney or advocate, if at all possible.

The hearing must be held at a place convenient for the parents and must be held in the evening if you request that. If you wish, the hearing can be "closed" to the public. If you choose to have the hearing "open," other people in addition to the witnesses can attend. Even if the hearing is open, only the decision can be made available to the public; if the hearing is closed, the decision is part of your child's records and cannot be released without your permission.

The hearing officer listens to both sides and then makes a written decision that is mailed to you and school officials. Unless you have asked for more time, the hearing must be held within 30 calendar days of your request; the decision of the hearing officer must be issued within 45 calendar days of the date you request the hearing.

HOW TO REQUEST A SPECIAL EDUCATION HEARING:

To request a special education hearing, you must send a written request to your child's principal. You should send a copy of your request to your district's director of special education and/or district superintendent. State your child's name, date of birth, and whether your child has a disability or is gifted. You should also briefly state the problem that will be the focus of the hearing. *Be sure to keep a copy of your hearing request for your records!*

- APPEALS FROM HEARING OFFICERS' DECISIONS

If you are not satisfied with all or part of the hearing officer's decision, you have the right to file an appeal to a 3-member Appeal Panel. The hearing officer is required to tell you at the hearing - and send you in writing with the decision - the procedures and timeline for filing the appeal.

- TAKING YOUR CASE TO COURT

If you are unhappy with the decision on your appeal, you have the right to file a case in court. If your child has disabilities, you may file your case in federal or state court. If your child is gifted, your case can only be filed in state court. Cases in state court must be filed within 30 calendar days after the appeal decision. There is no set timeline for filing cases in federal court; however, it is recommended that your case be filed as soon after the appeal decision as possible. You should use the services of an attorney if you are going to court.

- HIRING AN ATTORNEY FOR YOUR HEARING OR COURT CASE

Under federal law, if your child has a disability and you use the services of an attorney for a hearing or appeal, you have the right to be reimbursed by the school district for at least some of the attorney's fees and costs if you win all or most of your claim. You can also be reimbursed for the costs of any independent evaluations used and the cost of having an independent evaluator testify at the hearing. Even if you settle your case before going to a hearing, or before the court case is decided, you may still have the right to collect attorney fees and costs.

- THE PLACEMENT OF THE CHILD WHILE THE HEARING PROCESS IS TAKING PLACE

Once you have started the special education hearing procedures, there can be no change in the classification, evaluation, IEP, or placement of your child until all those procedures - from the pre-hearing conference, hearing, administrative appeal to court case - are completed, unless you and the district agree to a change. This is often called the "status quo" or "stay put" rule of the law.

HOW THE "STAY PUT" RULE WORKS

Once you start the "due process" procedures by requesting a pre-hearing conference or a hearing, your child's program and placement will stay the same, unless you and school officials agree to a change. Therefore, if you prefer the current situation to the changes school officials recommend, start the due process procedures and your child will "stay put" in the current program during the entire time it takes to finish due process. In these types of situations, the "stay put" rule works in your favor.

If, on the other hand, you do *not* like the current situation, but are not totally satisfied with school official's recommendations either, the stay put rule can work against you. If you disapprove the proposal, your child "stays put" in the class or program you don't like. In those types of cases, you may want to consider approving the recommendation. Your child will then start the new program or placement and - if need be - you can thereafter use the due process procedures to try to improve it.

- FILING A COMPLAINT WITH THE STATE OR FEDERAL DEPARTMENT OF EDUCATION

The law also provides a way for you to file a complaint when you believe your child's rights are being violated. For example, the complaint process can be used to require school officials to give your child the services listed on the IEP or when school officials do not give you written notice before making significant changes to your child's program or placement.

In Pennsylvania, you can file your complaint with the Division of Compliance of the State Department of Education's Bureau of Special Education. A reviewer from that Division must investigate the situation and issue a written decision to you and school officials within 60 days of receiving your complaint.

HOW TO FILE A COMPLAINT WITH THE STATE:

If you believe your child's rights have been violated by school officials, you should file a written complaint. The complaint can be in the form of a letter. Give your child's name, date of birth, school, and school district, and state whether your child has a disability or is gifted. You should then explain the problem you are having. You can send a copy of any papers you think would be helpful, such as your child's IEP. Send your complaint to the Division of Compliance, Bureau of Special Education, State Department of Education, 333 Market Street, Harrisburg, PA 17126-0333. *Be sure to keep a copy of your complaint for your records!* If you'd like, you can call the Division (717-783-6913) and ask that a complaint form be sent to you.

Under a federal law known as Section 504 of the Rehabilitation Act of 1973, school districts and others that receive federal funds may not discriminate against children or adults on the basis of handicap. If your child has a disability and you believe that school officials are violating your child's rights, you can also file a complaint with the U.S. Department of Education.

HOW TO FILE A COMPLAINT WITH THE FEDERAL GOVERNMENT:

You should send a letter explaining the details of your complaint along with your child's name, date of birth, school and school district. Explain why you feel the district has violated your child's rights. You should also include copies of any helpful material, such as your child's IEP. The letter should be sent to the Office for Civil Rights, U.S. Department of Education, Region III, Room 6300, 3535 Market Street, Philadelphia, PA 19104. *Be sure to keep a copy of your complaint for your records!*

7: THE RIGHT TO SPECIAL PROTECTIONS IN DISCIPLINE AND IN BEHAVIOR PROGRAMS

Children in special education programs are entitled to special protections in the areas of discipline and behavior programs. The law recognizes that these children's behavior is sometimes a result of their special needs.

IF SCHOOL OFFICIALS WANT TO SUSPEND A CHILD WHO HAS MENTAL RETARDATION, THEY MUST FIRST NOTIFY THE PARENTS IN WRITING AND ASK THE PARENTS TO APPROVE OR DISAPPROVE OF THE PROPOSED SUSPENSION. If the parents disapprove, the parents have the right to use the hearing and appeal process to decide whether the suspension should take place and what changes, if any, should be made to the child's program. In an emergency, school officials must get approval from the State Department of Education before they can suspend a child with retardation. Even then, the student cannot be suspended for more than 10 days, unless district officials obtain a federal court order. If an emergency suspension is granted, parents still have the right to a special education hearing.

SCHOOL OFFICIALS CANNOT SUSPEND OTHER EXCEPTIONAL YOUNGSTERS FOR MORE THAN 10 SCHOOL DAYS AT ANY ONE TIME OR MORE THAN 15 SCHOOL DAYS IN ANY ONE SCHOOL YEAR. If the proposed suspension is for longer than 10 days, or added to previous suspensions will total more than 15 days in that school year, school officials must set up an MDT evaluation of the child to consider whether the suspension should take place. The parents are members of the MDT. (See Chapter 3 for discussion of MDT evaluation process.)

If the MDT decides to recommend suspension, school officials must first give the parents written notice and ask them to approve or disapprove the proposed suspension. If the parents disapprove, the suspension cannot take place until the parents have had a chance to use the special education hearing and appeal procedures, unless school officials obtain a court order.

The law also has other special protections for children with disabilities. Court decisions indicate that no student with disabilities can ever be permanently expelled from all educational services for behavior related to the disability if the student is less than 22 years old and hasn't graduated from high school. Corporal punishment can never be used with children who have disabilities.

School officials are required to design behavior programs for children who have behavior problems. The law mandates that these types of programs be based on positive methods and not negative ones. *CHILDREN MAY NOT BE PUNISHED FOR BEHAVIOR THAT RESULTS FROM THEIR DISABILITIES.*

Mechanical restraints, such as handcuffs or belts, and physical restraints, such as holding a child down on the floor, cannot be used except in emergency situations where there is a clear and immediate danger that the student will be harmed or will harm someone else. Certain mechanical restraints, such as seat belts, can be used to help students who cannot control their physical movements, if the parents agree and the use of these restraints is included in the IEP.

In addition, school officials may not use any of the following methods with children who have disabilities:

* placing the student in a locked room, box or other structure or in any other space from which the student can't leave
* using noxious substances or electric shock to discourage certain behavior
* depriving the student of food, water, fresh air or other basic human needs
* treating the student in a demeaning way

School employees who help implement the student's behavior program must be specially trained in behavior methods. All methods that may be implemented by school personnel must appear in the special education plan that the district or intermediate unit has submitted to - and had approved by - the State Department of Education.

8: THE RIGHT TO A HIGH SCHOOL DIPLOMA

All exceptional students in Pennsylvania have the right to earn a regular High School Diploma. Children who have disabilities can earn a diploma by completing the same kind of courses and earning the same number of credits as regular education students. Or, a high school diploma will be awarded to a student with disabilities who completes the special education program developed by the IEP team.

Children with disabilities have the right to stay in school through the school year in which they turn 21 years old, or until they graduate. If the child accepts a high school diploma prior to age 21, the student cannot continue to receive free special education services. If a student is 18 or older and school officials believe the child has completed the programs in the IEP and is eligible to graduate, they must give parents written notice. If parents do not agree with this decision, they may begin the due process procedures and the child must be allowed to continue to attend school until the procedures are completed or the child is beyond school age.

9: THE RIGHT TO PRE-SCHOOL SERVICES

- CHILDREN AGES 3 TO 5

Federal and state law require that free and appropriate pre-school programs be provided to all children with disabilities or developmental delays ages 3 to 5 years old. In most areas of the state, pre-school programs are provided through local intermediate units, either directly or through contracts with private providers.

Most of the rules that apply to school age students with disabilities also apply to pre-schoolers ages 3 to 5. For example, parents of pre-schoolers who need or are thought to need special education services have the same rights to receive written notices and to use mediation and the conference, hearing and appeal process discussed in Chapter 6.

The evaluation process for pre-schoolers is very similar to the one discussed in Chapter 3 for school age students. An evaluation must be done by a Multi-Disciplinary Team (MDT) that includes the parents. A report must be written and given to the parent recommending whether the child is eligible for services and, if so, what services are needed. For pre-schoolers, the evaluation must be completed within 45 *calendar* days after parental consent for the evaluation is given.

Since these children are very young, they need a different type of evaluation than is given to school age children. The evaluation must look at the child's developmental levels and physical development to determine if the child has a disability or is developmentally delayed. Re-evaluations must be done each year for eligible pre-schoolers - rather than every two years.

The Individualized Education Program (IEP) is also similar to the one discussed in Chapter 4. The IEP must be based on the child's needs and must provide the programs and special services that meet those needs. The IEP is developed at a conference by an IEP team, which must include the child's parents. In the case of children receiving pre-school services, the IEP must be reviewed, and if necessary revised, every 6 months.

With the agreement of the parents, the IEP of an eligible young child must contain a section on services to the family necessary to assist the child's development. Also, the IEP must contain a section addressing the child's move to public school beginning at least 1 year before the child becomes school age.

The biggest areas of difference between special education services to children of school age and special education services to pre-school children are in the *types* of services that can be provided and *where* those service can be provided.

- TYPES OF PRE-SCHOOL SERVICES AND PLACEMENTS

Because not all young children are ready to attend a "school" program for a full day, it is sometimes appropriate to provide special services to the family and child in the home. If a youngster is enrolled in a public or private pre-school program, support to the regular teacher may be all that is needed. Students can also receive programs that combine in-home and in-school programs. Finally, pre-schoolers can attend special classroom-based programs. The law requires that pre-schoolers receive their programs together with children without disabilities, to the maximum extent appropriate to the needs of the child. *THE TYPE, AMOUNT AND LOCATION OF SPECIAL SERVICES PROVIDED MUST BE BASED ON THE CHILD'S NEEDS.*

- CHILDREN FROM BIRTH TO 3 YEARS OLD

Children below age 3 are eligible for early intervention services if they have a developmental delay or have a physical or mental disability (such as Down Syndrome) that is likely to result in a developmental delay. The term "developmental delay" includes delays in physical development, language and speech, cognitive, emotional or social development, or in self help skills. Services to these children are provided through the Mental Health/Mental Retardation System (MH/MR) of the Department of Public Welfare, rather than through the school system.

"Early Intervention" services are services necessary to meet the child's developmental needs. These can include - but are not limited to - occupational, physical and speech and language therapies, psychological services and specialized learning instruction. Services can be provided in the child's home, at the child's day care center, or in a separate, specialized facility, depending on the child's needs. Early Intervention services also include family training and counseling and other services needed by the family to support the child's development.

If you think your child is eligible for services, you should contact your local Community Mental Health/Mental Retardation Center. Each county has one or more MH/MR Centers; they are usually listed in the blue pages of your local phone book. MH/MR is the contact for all children needing Early Intervention services, including children who do not have mental health problems or mental retardation.

At the time of the printing of this Guide, final state regulations governing programs for infants from birth to 3 had not been completed by the Deparment of Welfare. However, under federal law, these youngsters have the right to multidisciplinary evaluations and individualized programs and services. Parents also have the right to written notices of any proposed action concerning their child and the right to disagree with the proposal and request a hearing to resolve their concerns. For more information about the Early Intervention system and your rights, you may contact ELC or a local parent support group listed in Appendix G.

10: OTHER IMPORTANT SPECIAL EDUCATION RIGHTS

- YOUR RIGHT TO SEE AND GET COPIES OF YOUR CHILD'S SCHOOL RECORDS

Federal and state law give all parents the right to see and get copies of their child's public school records. If your child now receives - or has ever received - special education services, you have the right to see and get copies of the records within 30 days of your request.

If your child is going to be evaluated by the school district, or if an IEP conference or hearing has been scheduled, you have the right to see and get copies of your child's records before the evaluation, conference or hearing, even if that is less than 30 days. If you cannot go to the school to see or copy the records, you can send someone in your place.

HOW TO REQUEST COPIES OF YOUR CHILD'S RECORDS:

If you want to see or get copies of your child's school records, you should write to your child's principal. If you will be unable to go to the school yourself, tell the principal in your letter the name of the person who will be going for you. If your child is over 18 years old, he or she must also sign the letter. *Be sure to keep a copy of your request for your own records!* If you do not hear from school officials soon, call the principal for an explanation. If you are not given a chance to see and copy the records within the timelines, you can file a complaint with the state. (See Chapter 6, p. 34)

You may not be charged for the cost of seeing the records. You can, however, be charged the actual cost of copying them, so long as the charge is not so high that you would be unable to pay it. The law also gives you the right to ask for and receive from school officials an explanation of any information contained in the records.

Your child's "records" include all the information kept or used by the school officials that relate directly to your youngster. This includes evaluation and test results and any other material used in deciding if your child has a disability or is gifted, or the appropriate program and placement for your child. You do not have the right, however, to see the private notes of school officials, therapists or teachers that are *not* shared with anyone else and are not kept in your child's file.

The law also mandates that your child's school records be kept confidential by school officials. Records generally cannot be released to anyone outside the school system without your consent, or the consent of your youngster if over 18 years old. Your school district must have a procedure you can use to have the records corrected if, after seeing them, you feel that they are inaccurate or misleading.

- THE RIGHT TO PROPER MATERIALS, CLASSROOMS AND SCHOOL BUILDINGS

Children in special education programs have the right to receive the same quality materials (such as books), classrooms, furniture and school buildings as are provided to children in regular education. School officials must not assign exceptional students to isolated areas of a school or to rooms or areas that are not designed for instructional purposes or that are not easily accessible. Classrooms and furniture must be appropriate for the students in the room. For example, if there are children in the room who use wheelchairs, the room must be big enough so that the students can move around without difficulty.

In addition, school officials must not move special education classes - or transfer special education students - unless there is a valid reason for doing so. State law requires that, in general, the location of special education classes must stay the same for at least 3 school years so that students will not have to get used to a new school each year.

- SPECIAL RIGHTS OF CHILDREN WHOSE PARENTS ARE NOT KNOWN OR ARE NOT AVAILABLE

If the parents of a child who has (or is thought to have) a disability are no longer living, or the parents' rights have been legally terminated by a court, or the parents cannot be located, the law requires school officials to appoint an adult to serve as the child's "parent" throughout the special education process. This adult - called a "surrogate parent" under special education laws - has the same rights as the birth parents to request evaluations, approve or not approve programs, or to use the mediation or hearing process.

A person appointed as a surrogate parent must not work for the school district or intermediate unit and must not have any conflicts of interest that would prevent the adult from being a strong advocate for the child. If a child is in foster care, the foster parent may serve as the child's surrogate parent; however, the child's caseworker should not fill this role. School officials must provide training to anyone appointed as a surrogate parent.

11: CONCLUSION

The rights described in this Manual exist because parents, professionals and others concerned about the needs of exceptional children banded together and worked for the passage of state and federal laws. It will take the continued hard work of parents and other child advocates to make sure these rights are not hollow promises, but instead result in quality programs for exceptional children.

We hope this Manual has helped you better understand the special education system and has given you some tips on how to get an appropriate program for your child. You may also want to get copies of "Fact Sheets" that ELC has developed for parents. Each Fact Sheet is 1 or 2 pages long and focuses on a specific step or right in the special education system. For a listing of Fact Sheets available, see the inside back cover. In addition, Appendix G, beginning at p. 53, contains a listing of state-wide parent advocacy and support groups that may also be able to assist you.

While the special education system may seem complicated, its basic design is really quite simple: to look at each child, determine what learning needs the child has, and provide the program and services necessary to meet those needs. If you and school officials stay focused on your child and your child's needs, an appropriate program should not be hard to obtain.

Good luck!

APPENDIX A: DEFINITIONS OF EXCEPTIONALITIES

The following definitions are from state special education standards at 22 PA Code Sectioin 342.1. Each definition also indicates the testing or other evaluations that are needed to determine if the child meets the definition.

GENERAL PROVISIONS

§ 342.1 Definitions.

(a) *Applicability of § 14.1.* Unless otherwise noted, definitions stated in § 14.1 (relating to definitions) apply to terms used in this chapter.

(b) *Additional definitions.* The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Autism/pervasive developmental disorder—A severe neurological disorder characterized by qualitative distortions in the development of cognitive, language, social or motor skills. Determination of autism/pervasive developmental disorder shall include a full assessment and comprehensive report of diagnosis by a physician qualified to render a diagnosis and by a public school psychologist specifying the nature and degree of the disorder. Symptoms are typically manifested before 3 years of age, are not usual for any stage of child development, and shall include two or more of the following:

(i) Impairment in reciprocal social interaction.

(ii) Impairment in communication and imaginative activity including verbal and nonverbal skills.

(iii) Markedly restricted repertoire of activities and interests, often involving resistance to change and motor or verbal stereotypes.

(iv) Abnormal or inconsistent responses to sensory stimuli in one or more of the following areas: sight, hearing, touch, pain, balance, smell, taste, posture and motor behavior.

Blindness or *visual impairment*—A visual impairment which adversely affects the educational performance of the person. Determination of visual impairment shall include a full assessment and comprehensive report by an eye specialist specifying the nature and degree of the impairment.

Deafness or *hearing impairment*—A hearing loss which interferes with the development of the communication process and results in failure to achieve educational potential. Determination of the hearing impairment shall include a report by an audiologist or otologist, or both, specifying the nature and degree of the impairment.

Developmental delay—

(i) This term is limited to early intervention services and programs under §§ 342.51—342.56 (relating to early intervention).

(ii) A child is considered to have a developmental delay when the agency has data from an evaluation to indicate the child has one of the disabilities listed in this section and one of the following exists:

(A) The child's score, on a developmental assessment device, on an assessment instrument which yields a score in months, indicates that the child is delayed by 25% of the child's chronological age in one or more developmental areas: cognitive, language/speech, physical, social/emotional, self-help.

(B) The child is delayed in one or more of the following developmental areas: cognitive, language/speech, physical, social/emotional, self-help, as documented by test performance of 1.5 standard deviations below the mean on standardized tests.

(iii) Determination of developmental shall specify the nature and degree of the delay and shall include a full assessment and comprehensive report by one or more of the following: a certified public school psychologist, speech correctionist, a pediatrician or a psychiatrist, and shall specify the nature and degree of the delay.

Mentally gifted—Outstanding intellectual and creative ability the development of which requires special services and programs not ordinarily provided in the regular education program. This term includes a person who has an IQ of 130 or higher and when multiple criteria as set forth in Department Guidelines indicate gifted ability. Determination of gifted ability will not be based on IQ score alone. A person with an IQ score lower than 130 may be admitted to gifted programs when other educational criteria in the profile of the person strongly indicate gifted ability. Determination of mentally gifted shall include a full assessment and comprehensive report by a public school psychologist specifying the nature and degree of the ability.

Mental retardation—Impaired mental development which adversely affects the educational performance of a person. The term includes a person who exhibits significantly impaired adaptive behavior in learning, maturation or social adjustment as a result of subaverage intellectual functioning. The term does not include persons with IQ scores of 80. Determination of mental retardation shall include a full assessment and comprehensive report by a public school psychologist certified by the Department specifying the nature of the impairment and the level of functioning.

Multihandicap—Concomitant impairments, such as mental retardation and a physical disability, the combination of which results in needs which require extraordinary service delivery. The term does not include students who are "deaf-blind".

Neurological impairment (brain damage)—A moderate to severe injury to the brain, as identified by a neurological examination, resulting in severe behavior and learning disorders. Persons whose behavior and learning disorders are primarily the result of visual, hearing or motor handicaps, mental retardation, emotional factors or environmental disadvantage are not neurologically impaired. The term does not include minimal brain dysfunction (see the definition of specific learning disability in this section). Determination of neurological impairment shall include a neurological report from a physician and a psychological report from a certified public school psychologist and shall specify the nature and degree of the impairment.

Other health impairments—Conditions in which a person exhibits limited strength, vitality or alertness, due to chronic or acute health problems, including a heart condition, spina bifida, tuberculosis, rheumatic fever, nephritis, asthma, sickle-cell anemia, hemophilia, epilepsy, environmental illness, such as lead poisoning, leukemia or diabetes, which conditions adversely affect a child's educational performance. Determination of other health impairments shall include reports from a physician and a certified public school psychologist and shall specify the nature and degree of the impairment.

Physical disability—A functional limitation which affects one or more of the following: physical mobility, speech or other forms of nonvocal communication, writing, arm and hand movement, eye and head movement or one or more of the precursor developmental steps which lead up to full attainment of these skills necessary for success in education. Determination of physical disability shall include reports from a physician and a public school psychologist, shall specify the nature and degree of the impairment and, when appropriate, the student's ability to profit from assistive technology.

Serious emotional disturbance—A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree which condition adversely affects educational performance: an inability to learn which cannot be explained by intellectual, sensory or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; a tendency to develop physical symptoms or fears associated with personal or school problems. The term does not include students who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed. A student may not be determined to have a serious emotional disturbance for disciplinary reasons alone. Determination of serious emotional disturbance shall include a full assessment and comprehensive report by a certified public school psychologist and may include the diagnosis of a licensed psychiatrist.

Specific learning disability—

(i) A chronic condition of presumed neurological origin which selectively interferes with the development, integration or demonstration of language, spoken or written, or of nonverbal abilities.

(ii) The condition manifests itself as a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

(A) Oral expression.

(B) Listening comprehension.

(C) Written expression.

(D) Basic reading skill.

(E) Reading comprehension.

(F) Mathematics calculation.

(G) Mathematics reasoning.

(iii) The term is not synonymous with underachievement. The term includes specific deficits in receptive and expressive language and deficiencies in initiating or sustaining attention, impulsivity, and other specific conceptual and thinking difficulties, such as nonverbal reasoning, integrating problems, motor coordination and social perception. Examples of the condition include minimal brain dysfunction, dyslexia and developmental aphasia, if the evaluation clearly indicates that the person can demonstrate normal or above normal intellectual functioning on an appropriate measure of intelligence. The term does not include learning conditions which are primarily the result of sensory impairment, physical disability, mental retardation, emotional factors or environmental, cultural or economic disadvantage. Determination of the learning disability shall include a full assessment and comprehensive report by a certified public school psychologist specifying the nature and degree of the disability.

Speech and language impairment—Impairments of language, voice, fluency or articulation that are not due to sensory impairment or developmental delay, but which are present to such a degree that academic achievement is affected and the condition is significantly handicapping to the affected person. Determination of speech and language impairment shall include the report of a certified speech clinician specifying the nature and degree of the impairment.

APPENDIX B: SAMPLE LETTER REQUESTING AN EVALUATION

YOUR ADDRESS
YOUR PHONE NUMBER
DATE

PRINCIPAL
CHILD'S SCHOOL
ADDRESS

Dear :

I am the parent of _____, whose date of birth is _____ and who is a student in the _____ grade.

My child has not been doing well in school and I believe _____ may need special education services. I am therefore requesting a complete Multi-Disciplinary Team (MDT) evaluation to determine if _____ is an exceptional child and, if so, what programs and services are needed. I understand that under state regulations, I am a member of the MDT; please let me know when the MDT will meet so that I may attend.

I hereby give my consent for the evaluation to be done. I understand that under state regulations, the evaluation must be completed within 45 school days from the date of my consent.

Should you have any questions or problems with this request, please contact me.

Thank you.

Sincerely,

YOUR NAME

APPENDIX C: SAMPLE LETTER REQUESTING A RE-EVALUATION

YOUR ADDRESS
YOUR PHONE NUMBER
DATE

PRINCIPAL
CHILD'S SCHOOL
ADDRESS

Dear :

I am the parent of _____, whose date of birth is _____ and who is a student in the _____ grade/program.

My child has not been doing well in school. In order to understand what changes may be needed in my child's special education program or services, I am requesting that _____ receive a complete re-evaluation.

Please contact me at your earliest convenience to let me know when the re-evaluation will take place.

Thank you.

Sincerely,

YOUR NAME

APPENDIX D: SAMPLE LETTER REQUESTING AN INDEPENDENT EVALUATION

YOUR ADDRESS
YOUR PHONE NUMBER
DATE

PRINCIPAL
CHILD'S SCHOOL
ADDRESS

Dear :

I am the parent of _____, whose date of birth is _____ and who is a student in the _____ grade/program.

I am requesting that the school district agree to pay for an independent evaluation of my child. I believe the district's evaluation was not appropriate because ..... [examples: it did not identify the specific special education needed to help my child; it did not use the correct testing instruments; it has not helped develop an appropriate program for my child].

I understand that if the school district turns down my request, it must arrange for a special education hearing. I would appreciate it if you would contact me at your earliest convenience to let me know whether the independent evaluation will be provided or when the hearing will be scheduled.

Thank you.

Sincerely,

YOUR NAME

APPENDIX E: PERMISSIBLE CLASS SIZES

The following chart is from the state special education standards at 22 PA Code Section 342.42(j).

Caseload and Class Size for Special Education

This chart presents the caseload allowed on a single teacher's rolls; the number in parenthesis is the maximum number of exceptional students in the room with the teacher at any one time.

Type of Service	*Itinerant*	*Resource*	*Part-time*	*Full-time*
Academic Support Class:				
Gifted Support	15-75(15)	12-50(15)	10-30(15)	10-15(15)
Learning Support	15-50(6)	15-20(8)*	10-15(8)*E 15-18(9)*S	6-12(12)*E 8-15(15)*S
Life Skills Support	10-20(4)*	10-20(6)*	10-15(8)*E 15-18(9)*S	8-12(12)*E 8-15(15)*S
Emotional Support	15-50(4)	15-20(6)*	10-15(10)*	6-12(12)*
Sensory and Communication Support Class:				
Deaf or Hearing Impaired Support	15-50(4)	6-15(6)*	6-10(6)*	5-8(8)*
Blind or Visually Impaired Support	15-50(4)	6-15(6)*	8-15(8)*	5-12(12)*
Speech and Language Support	20-90(4)**			5-8(8)*
Physical Support	15-50(4)*	6-15(6)*	6-12(6)*	6-12(12)*
Autistic Support	8-12(4)*	6-8(6)*	4-8(6)*	4-8(8)*
Multihandicapped Support	8-12(4)*	6-8(6)*	4-8(6)*	4-8(8)*

*Paraprofessional assistance available.

**With no more than 90 sessions per week.

APPENDIX F: SAMPLE LETTER REQUESTING A PRE-HEARING CONFERENCE

YOUR ADDRESS
YOUR PHONE NUMBER
DATE

PRINCIPAL
CHILD'S SCHOOL
ADDRESS

Dear :

I am the parent of _____ , whose date of birth is _____ and who currently is in the _____ grade/program.

I am hereby requesting that a pre-hearing conference be set up so that we may discuss concerns I am having with my child's IEP and program. In particular, I am concerned about .....

I understand that under state regulations, the conference must be held within 10 days of my request. Within the next 2 weeks, I will be available for a conference on at o'clock.

[I would like to see and get copies of my child's school records prior to the conference date. Please let me know a convenient date and time.]

Please contact me at your earliest convenience to let me know the conference date.

Thank you.

Sincerely,

YOUR NAME

APPENDIX G: PARENT ADVOCACY AND SUPPORT GROUPS

Listed below are the state offices of various advocacy and parent support groups. Many of these organizations also have local chapters around the state. For information on the address and phone number of the local chapter in your area, contact the organization's state office or Pennsylvania Protection and Advocacy, Inc.

PENNSYLVANIA PROTECTION & ADVOCACY, INC. (PP&A)
Suite 102
116 Pine Street
Harrisburg, Pa 17101
(800) 692-7443 OR (717) 236-8110 (BOTH VOICE & TTY)

LEARNING DISABILITIES ASSOCIATION OF PA
Box 208
Uwchland, Pa 19480
(215) 458-8193

ASSOCIATION FOR RETARDED CITIZENS - PA (ARC - PA)
123 Forster Street
Harrisburg, Pa 17102
(800) 692-7258 OR (717) 234-2621

AUTISM SOCIETY OF AMERICA - PA
500-G Garden City Drive
Garden City Plaza
Monroeville, Pa 15146
(412) 856-7223

AUTISM SUPPORT & ADVOCACY IN PA (ASAP)
243 Lenoir Ave
Wayne, Pa 19087
(215) 688-8894

COUNCIL FOR THE BLIND
Adelphia House, #5 Mezzanine
1229 Chestnut Street
Philadelphia, PA 19107
(215) 238-1410

EASTER SEAL SOCIETY
1500 Fulling Mill Road
PO Box 497
Middletown, PA 17057
(717) 939-7801

EPILEPSY FOUNDATION
Suite 505, GSB Building
City Line and Belmont Avenues
Bala Cynwyd, PA 19004
(215) 667-7478

MENTAL HEALTH ASSOCIATION IN PA
120 South Street
Harrisburg, PA 17101
(717) 236-9363

MENTOR PARENT PROGRAM
PO Box 718, Salina Road
Seneca, PA 16346
(800) 447-1431

METROPOLITAN ERIE COUNTY
PO Box 134
Erie, PA 16512
(814) 453-5654

MUSCULAR DYSTROPHY ASSOCIATION
4807 Jonestown Rd., Suite 142
Harrisburg, Pa 17109
(717) 540-4316

PARENT EDUCATION NETWORK (PEN)
333 E. 7th Ave.
York, PA 17404
(800) 522-5827 OR (717) 845-9722

PARENT INFORMATION PROJECT
Indiana University of PA
227 Davis Hall
Indiana, PA 15705-1087
(412) 357-7841

PARENT INVOLVED NETWORK OF PA
Suite 902
311 South Juniper Street
Philadelphia, Pa 19107
(800) 688-4226

PA ASSOCIATION FOR GIFTED EDUCATION (PAGE)
PO Box 890
McMurray, PA 15317
(412) 941-6945

PA SOCIETY FOR THE ADVANCEMENT OF THE DEAF
616 Chestnut Ridge Drive
Pittsburgh, PA 15205
(412) 787-7771

TOURETTE SYNDROME SOCIETY
1015 Baltimore Pike
Gettysburg, PA 17325-7002
(800) 446-6356 OR (717) 337-1134

SPECIAL NEEDS ALLIANCE FOR PARENTS (SNAP)
PO BOX 696
Harrisburg, PA 17108-0696
(800) 442-4017

UNITED CEREBRAL PALSY OF PA
120 South Street
Harrisburg, PA 17101
(717) 236-1334

APPENDIX H: LEGAL BIBLIOGRAPHY

Laws and policies that give children the right to a free appropriate education exist at the federal, state and local levels. It is important to remember that while state laws or local policies may *expand* the rights provided under federal law, they may not *reduce* federal rights. When a state law or local policy conflict with federal law, federal law controls.

FEDERAL LAWS AND REGULATIONS:

The Education of the Handicapped Act (P.L. 94-142) is the main federal law in the special education area for students who have disabilities. In 1989 the Act was amended by P.L. 99-457, which provides for pre-school and early intervention services to children with disabilities ages birth to 5 beginning with the 1991-92 school year.

The law is published at 20 U.S.C. Sections 1400, et. seq., and the implementing regulations are published at 34 C.F.R. Part 300.

Section 504 of the Rehabilitation Act of 1973 is a "civil rights" law that prohibits discrimination against otherwise qualified people on the basis of handicap. Section 504 also requires public schools to provide children with handicaps a free appropriate education. The law applies to all recipients of federal funds.

Section 504 is published at 29 U.S.C. Section 794 and the implementing regulations are published at 34 C.F.R. Part 104.

STATE LAW AND REGULATIONS:

The Pennsylvania School Code requires that school districts identify and appropriately educate all exceptional children, including children with disabilities, children who are mentally gifted and children in detention centers.

Relevant sections of the School Code are found at 24 P.S. Sections 13-1371 through 13-1377.

State Regulations: Several chapters of the state education regulations apply to special education programs and services:

22 PA Code Chapter 14. Effective July 1, 1990, Chapter 14 is the main chapter of state regulations on special education, including IEPs, placement options and due process procedures. Special education regulations were formally published at 22 PA Code Chapter 13.

22 PA Code Chapter 171. This chapter applies to the operation of, and placement of children at, approved private schools for children with disabilities.

22 PA Code Chapter 342. Also effective July 1, 1990, Chapter 342 contains the state standards that apply to special education programs and services, including definitions of the various disabilities, evaluation procedures and class size maximums. Special education standards were previously published at 22 PA Code Chapter 341.

LOCAL POLICIES:

Each school district and intermediate unit must prepare a "special education plan" that describes what services will be provided and other aspects of its special education program. These plans must be approved by the local school or IU board and by the state Department of Education. You may usually obtain copies of your district's plan through the Superintendent's office.

NOTES

FACT SHEETS AVAILABLE FROM ELC

One or two page Fact Sheets are available on the following special education subjects. To order, send a self-addressed, stamped legal size envelope with the titles you want to ELC-PA or call us at 215 238-6970. Most Fact Sheets are also available in Spanish. Please indicate if you want the Spanish version.

EIGHT COMMON MYTHS ABOUT SPECIAL EDUCATION LAWS

EXTENDED SCHOOL YEAR (ESY) PROGRAMS

INDEPENDENT EVALUATIONS

PRE-SCHOOL FOR CHILDREN WITH DISABILITIES

RELATED SERVICES

SCHOOL DISCIPLINE FOR EXCEPTIONAL CHILDREN

SCHOOL RECORDS

SERVICES FOR STUDENTS PLACED IN PRIVATE SCHOOLS BY THEIR PARENTS

SPECIAL EDUCATION RIGHTS IN PA

SURROGATE PARENTS

THE RIGHTS OF GIFTED STUDENTS

TRANSPORTATION RIGHTS

VOCATIONAL EDUCATION FOR CHILDREN WITH DISABILITIES

WHAT TO DO IF YOU'RE NOT SATISFIED WITH YOUR CHILD'S SPECIAL EDUCATION PROGRAM OR PLACEMENT